

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

Board Case No. MD-05-0460A

3 **DANIEL J. MARTINIE, M.D.**

4 **FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

5 Holder of License No. **29155**
6 For the Practice of Allopathic Medicine
In the State of Arizona.

(Letter of Reprimand)

7
8 The Arizona Medical Board ("Board") considered this matter at its public meeting on
9 August 9, 2006. Daniel J. Martinie, M.D., ("Respondent") appeared before the Board for a formal
10 interview without legal counsel pursuant to the authority vested in the Board by A.R.S. § 32-
11 1451(H). At the conclusion of the interview the Board voted to issue Findings of Fact,
12 Conclusions of Law and Order ("Board Order"). The Board Order was approved by the Board
13 and issued on October 12, 2006. On November 16, 2006 Respondent filed a Motion for
14 Rehearing or Review. The Board considered Respondent's Motion at its December 7, 2006
15 meeting and granted the Motion for the limited purpose of amending the language of the order
16 portion of the Board Order.

17 **FINDINGS OF FACT**

18 1. The Board is the duly constituted authority for the regulation and control of the
19 practice of allopathic medicine in the State of Arizona.

20 2. Respondent is the holder of License No. 29155 for the practice of allopathic
21 medicine in the State of Arizona.

22 3. The Board initiated case number MD-05-0460A after being notified by the United
23 States Department of Defense – United States Air Force ("DOD/USAF") it had taken an Article 15
24 action against Respondent for engaging in a sexual relationship with a female patient ("JA").
25 Respondent also reported this action on his 2005 license renewal. The DOD/USAF reported

1 Respondent's relationship with JA continued from February 1, 2003 through June 5, 2003 and
2 Respondent had reported the doctor-patient relationship with JA was severed in October 2002,
3 approximately four months before the relationship began. The DOD/USAF also reported
4 Respondent filled a narcotics prescription for JA at the request of her husband in July 2003.
5 Respondent does not dispute the Article 15 action was taken or that he had a sexual relationship
6 with JA. The DOD/USAF suspended Respondent's privileges for three months and restricted him
7 from seeing female patients for a period of time. Respondent's privileges were subsequently
8 restored. Respondent appealed the DOD/USAF action, but his appeal was denied.

9 4. Respondent testified he was not on active duty and was currently in the Air
10 National Guard. Respondent testified JA became his patient after she was admitted to the
11 hospital in October 2002 following a motor vehicle accident. Respondent subsequently
12 transferred her care to another physician and terminated the doctor-patient relationship.
13 Respondent and JA then began a consensual sexual relationship in February 2003.

14 5. Respondent is currently completing a residency in emergency medicine.
15 Respondent was very sorry for having caused the Board to have to review his conduct and this
16 was a very difficult time for him and he thought he had done the right thing in openly discussing
17 the situation with JA several times and he does not know if he had waited another month or
18 gotten a letter from his Colonel whether the situation would be different. Respondent testified he
19 now understands the rule that requires he wait six months before beginning a sexual relationship
20 with a former patient.

21 CONCLUSIONS OF LAW

22 1. The Arizona Medical Board possesses jurisdiction over the subject matter hereof
23 and over Respondent.
24
25

2. The Board has received substantial evidence supporting the Findings of Fact described above and said findings constitute unprofessional conduct or other grounds for the Board to take disciplinary action.

3. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1401(27)(p) (“[s]anctions imposed by an agency of the federal government, including restricting, suspending, limiting or removing a person from the practice of medicine or restricting that person’s ability to obtain financial remuneration”) and A.R.S. § 32-1401(27)(z) (“[e]ngaging in sexual conduct with a current patient or with a former patient within six months after the last medical consultation”).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED:

Respondent is issued a Letter of Reprimand for an action taken by the federal government restricting his practice to male patients only and for engaging in a sexual relationship with a former patient within six months after the last consultation.

RIGHT TO APPEAL TO SUPERIOR COURT

Respondent is hereby notified that this Order is the final administrative decision of the Board and that Respondent has exhausted his administrative remedies. Respondent is advised that an appeal to Superior Court in Maricopa County may be taken from this decision pursuant to Title 12, Chapter 7, Article 6.

1 DATED this 12th day of December, 2006.



THE ARIZONA MEDICAL BOARD

By *Timothy C. Miller*

TIMOTHY C. MILLER, J.D.
Executive Director

7 ORIGINAL of the foregoing filed this
8 13th day of December 2006 with:

9 Arizona Medical Board
9545 East Doubletree Ranch Road
10 Scottsdale, Arizona 85258

11 Executed copy of the foregoing
mailed by U.S. Mail this
12 13th day of December, 2006, to:

13 Paul J. Giancola
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15 Daniel J. Martinie, M.D.
16 Address of Record

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18 *Dr. M. Gra*